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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

TOMLIN v. COMMONWEALTH.

Nov. 14, 1918.

[97 S. E. 305.]

1. Criminal Law (§ 815 (3)*)—Instructions Excluding Count.—Where indictment charged illegal sale of liquor in two counts, both covering same offense and only difference being that one was more specific than other in that it contained the unnecessary averment of the name of the person to whom the liquor was sold, court's refusal to instruct jury not to consider the more general count was not error.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 717.]

2. Criminal Law (§ 1173 (3)*)—Review—Harmless Error—Refusal to Instruct.—Where two counts covered same offense, the only difference being that one was more specific than the other, court's refusal to instruct jury to disregard one of the counts was not prejudicial to defendant, where he was convicted of but one offense and received the minimum fine and imprisonment.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 604, 605.]

3. Criminal Law (§ 1159 (2, 4)*)—Review—Weight of Evidence—Credibility of Witnesses.—The weight of the testimony and the credibility of witnesses was for the jury.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 351-354; 13 Va.-W. Va. Enc. Dig. 974.]

4. Intoxicating Liquors (§ 236 (11)*)—Criminal Prosecution—Illegal Sale—Sufficiency of Evidence.—Evidence held sufficient to sustain conviction for illegal sale of liquor.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 34-36.]

Appeal from Circuit Court, Amherst County.

James Dug Tomlin was convicted of the illegal manufacture and the illegal sale of ardent spirits, and he appeals. Reversed in part.

Wm. Kinckle Allen, of Amherst, for appellant.

The Attorney General, for the Commonwealth.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.